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**DECISION**



**THE COMPTROLLER GENERAL  
OF THE UNITED STATES**  
WASHINGTON, D.C. 20548

**FILE:** B-214515

**DATE:** March 15, 1984

**MATTER OF:** Riley-Beaird

**DIGEST:**

1. The determination to set aside a procurement under section 8(a) of the Small Business Act is a matter for the contracting agency and the Small Business Administration, and therefore will not be reviewed by GAO absent a showing of possible fraud or bad faith on the part of government officials or a possible violation of applicable regulations.
2. The determination that a firm is eligible for award under section 8(a) of the Small Business Act is a matter for the SBA and therefore will not be reviewed by GAO absent a showing of possible fraud or bad faith on the part of government officials or a possible violation of applicable regulations.

Riley-Beaird protests the Department of the Army's decision to set aside a contract to supply 158 reverse osmosis water purification units for award under the Small Business Administration's (SBA) 8(a) program, and the proposed award of that contract to Univox-California, Inc., the recipient of a previous contract to supply such units. Riley-Beaird alleges that it had previously been advised that future procurements of such units would be on a competitive basis and further contends that, in any case, Univox-California is not owned and operated by a person who is socially and economically disadvantaged and thus is ineligible for award.

We dismiss the protest without obtaining an agency report since it is clear that the protest is not for our consideration. See Calplant Engineering Services Inc.; Del-Jen, Inc., B-212734; B-212734.2, September 29, 1983, 83-2 CPD 391; 4 C.F.R. § 21.3(g) as added by 48 Fed. Reg. 1931 (1983).

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Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (1982), authorizes the SBA to enter into contracts with any government agency with procuring authority and to arrange for performance of such contracts by letting sub-contracts to socially and economically disadvantaged small business concerns. The contracting officer is authorized "in his discretion" to let a contract to the SBA upon such terms and conditions as may be agreed upon by the procuring agency and the SBA. In light of that discretion, we do not review decisions to effect procurements under the 8(a) program, nor do we consider allegations that a firm is ineligible for the 8(a) program, because that is for SBA to determine, absent a showing of possible fraud or bad faith on the part of government officials or a possible violation of applicable regulations. See Graphic Industries Association, B-211940, November 21, 1983, 83-2 CPD 600; Ameriko Maintenance Co., Inc., B-212795, September 29, 1983, 83-2 CPD 392; Gateway Warehouse Services Corp., B-208350, August 17, 1982, 82-2 CPD 141. No such showing has been made here.

Accordingly, the protest is dismissed.

*Harry R. Van Cleve*  
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Acting General Counsel